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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ELLEN PARKINSON

Civil No.:_____

Plaintiff,

COMPLAINT

v.

Fair Labor Standards Act
(29 U.S.C. §§ 201 *et seq.*)
Oregon Wage and Hour Laws;
Breach of Contract

MAKING LIFE EASIER, LLC, an
Oregon Domestic Limited Liability
Corporation; DEBORAH L.
FRIEND, individually,

DEMAND FOR JURY TRIAL

Defendants.

I. INTRODUCTION

1. This action is brought by Ellen Parkinson ("Plaintiff"), a former employee of

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Making Life Easier, LLC, doing business as Making Life Easier Home Care Services, and Deborah L. Friend (collectively, “Defendants”), for unpaid wages and overtime compensation. Plaintiff worked for Defendants by assisting elderly clients and their families. Defendants did not pay Plaintiff for all of the time that she worked and did not pay her overtime wages for hours worked in excess of forty per week. Plaintiff seeks redress in the form of unpaid wages, overtime wages, statutory damages, attorney’s fees and costs. By and through her attorney, Plaintiff alleges as follows:

II. JURISDICTION

4. Jurisdiction is conferred on this Court by 29 U.S.C. § 216(b), as this action arises under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, and 28 U.S.C. § 1337, as it arises under acts of Congress regulating commerce.

5. Pursuant to 28 U.S.C. § 1337, this Court has supplemental jurisdiction over the claims based on Oregon law, as they are so related to claims within the Court’s original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

III. PARTIES

6. Plaintiff Ellen Parkinson (“Plaintiff”) is a natural person and resident of Wood Village, Oregon, Multnomah County.

7. Defendant Making Life Easier, LLC (“Defendant MLE”) is a Domestic Limited Liability Company registered in Oregon with an assumed business name of Making Life Easier Home Health Services. Defendant MLE’s principle place of business is in Portland, Oregon,

Multnomah County.

8. Defendant Deborah L. Friend (“Defendant Friend”) is a natural person and member of Defendant MLE and serves as its chief administrator and CEO.

9. During Plaintiff’s employment with Defendants, Defendant Friend acted directly in the interest of Defendant MLE in managing Plaintiff’s employment. Defendant Friend had the power to hire and fire employees, establish wage rates, supervised the work of employees, and aided in the creation of MLE’s employment policy and procedure.

10. Defendants jointly employed Plaintiff for the purpose of wage payment protections under both Federal and Oregon state wage and hour laws.

IV. FACTS

11. Between the fall of 2007 through January 5, 2013, Defendants engaged Plaintiff to provide service to the elderly clients of Defendant MLE.

12. Plaintiff’s responsibilities included performing tasks such as general household work, cooking, doing laundry, changing bed sheets, cleaning windows, dusting furniture, accompanying elderly clients on family vacations, and taking clients to the grocery store or to medical appointments.

13. For a portion of Plaintiff’s working hours, Defendants employed Plaintiff in domestic service within the definition of 29 CFR 552.101, thereby affecting interstate commerce.

14. At all times relevant, Defendant MLE’s annual gross receipts or business income exceeded \$500,000.00 per year.

15. Defendant Friend hired Plaintiff. Defendant Friend promised to pay Plaintiff

\$10.00 an hour to start. Overnight shifts with elderly clients were to be paid on a flat rate basis ranging from \$120.00 to \$140.00 per twelve hour shift, depending on the number of elderly clients served in that shift. Defendant Friend later raised Plaintiff's regular rate of pay to \$11.00 an hour and the flat rate of pay changed, varying between \$110.00 to \$180.00 per twelve hour shift.

16. Plaintiff was instructed by Defendants to attend an orientation course and subsequent training courses.

17. Plaintiff was not paid for time required to attend these orientation and training courses.

18. Throughout Plaintiff's employment with Defendants, she was not paid in full for compensable travel time.

19. In nearly every week Plaintiff worked for Defendants, she worked in excess of forty hours a week.

20. Plaintiff was not compensated at a rate of time and one half times her respective hourly rate for hours worked in excess of forty.

22. Defendants knew or should have known that they were not paying overtime wages due to Plaintiff and did so deliberately and willfully.

23. On July 11, 2013, Plaintiff's counsel sent a letter to Defendant MLE demanding that Defendants promptly pay Plaintiff's unpaid wages.

24. On July 29, 2013, Plaintiff's counsel sent another letter to Defendant MLE demanding that Defendants promptly pay Plaintiff's unpaid wages.

25. To date, Defendants have not paid Plaintiff all wages due.

V. CLAIMS FOR RELIEF

(First Claim: Fair Labor Standards Act, Minimum Wage)

26. Defendants violated 29 U.S.C. § 206(a)(1) by failing to pay all of Plaintiff's wages due at a rate equal to or greater than \$7.25 an hour.

27. Plaintiff seeks redress pursuant to 29 U.S.C. § 216(b). She is entitled to recover her unpaid minimum wages, an equal amount as liquidated damages, attorneys' fees and costs.

(Second Claim: Fair Labor Standards Act, Overtime Pay)

28. Defendants failed to pay Plaintiff for wages at a rate of time and one half for her overtime hours, in violation of 29 U.S.C. § 207.

29. Pursuant to 29 U.S.C. § 216(b), Plaintiff is entitled to recover her unpaid overtime wages, equal amounts as liquidated damages, and attorney's fees and costs.

(Third Claim: Oregon Minimum Wage)

30. Defendants violated ORS 653.025 and OAR 839-020-0010 by failing to pay Plaintiff's wages equal to or greater the relevant minimum wage rate per hour for all hours worked.

31. Plaintiff seeks redress pursuant to ORS 653.055. She is entitled to recover unpaid minimum wages, plus 240 times her hourly rate of pay as penalty wages, attorneys' fees and costs.

(Fourth Claim: Oregon Overtime Wages)

32. Defendants failed to pay Plaintiff at a rate of time and one half for her overtime

hours in violation of ORS 653.261(1).

33. Plaintiff is entitled, under ORS 652.055, to recover penalty damages in an amount equal to 240 times her hourly wage rate, and to reasonable attorney fees and costs, for non-payment of overtime wages due.

(Fifth Claim: Untimely Payment of Wages)

34. Defendant MLE violated ORS 652.140 and OAR 839-001-0420 by failing to pay Plaintiff's unpaid wages when due upon termination of employment.

35. Defendant MLE's failure timely to pay wages was willful.

36. Plaintiff seeks relief under ORS 652.150 for Defendant's failure to timely pay wages. She is entitled to recover a penalty of 240 times their average hourly rate of pay, and attorneys' fees and costs pursuant to ORS 652.200.

(Sixth Claim: Breach of Contract)

37. Defendants breached their contract with Plaintiff by failing to pay the agreed wage rates for all hours worked by Plaintiff.

PRAYER FOR RELIEF

Plaintiff respectfully requests the Court grant the following relief:

1. On Plaintiff's first claim, unpaid minimum wages, plus an additional amount in liquidated damages, plus reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b);

2. On Plaintiff's second claim, unpaid overtime wages, plus an additional amount in liquidated damages, plus reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b);

3. On Plaintiff's third claim, unpaid Oregon minimum wages, plus reasonable attorneys' fees and costs, plus statutory damages in an amount equal to two hundred and forty (240) times Plaintiff's hourly wage rate for Defendants' failure to pay the minimum wage pursuant to ORS 653.055;

4. On Plaintiff's fourth claim, unpaid overtime wages, plus reasonable attorneys' fees and costs, plus statutory damages in an amount equal to two hundred and forty (240) times her hourly wage rate for Defendants' failure to pay the overtime wage pursuant to ORS 653.261;

5. On Plaintiff's fifth claim, statutory damages of two hundred and forty (240) times Plaintiff's average hourly rate of pay, pursuant to ORS 652.150, plus reasonable attorneys' fees and costs pursuant to ORS 652.200 for Defendant MLE's failure to timely pay Plaintiff's final wages;

6. On Plaintiff's sixth claim, actual damages to be determined at trial for Defendants' breach of contract;

7. Prejudgment interest on Plaintiff's state law claims, post-judgment interest on all claims; and

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8. Such other relief as this Court deems just and proper.

Respectfully submitted this 30th day of August, 2013.

/s/ *Erin M. Pettigrew*

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